IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5583 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
DECEMBER 21, 2006.

Shri Parchure, learned counsel for the petitioner seeks time to file affidavit of the petitioner on record.

This request is opposed by Shri Choudhari, learned counsel for the respondent, who states that this Court has heard this matter on 14.12.2006 and time was given only for the withdrawal of writ petition. He therefore opposes the request for adjournment.

The perusal of order dated 14.12.2006 reveals that time was given to learned counsel for the petitioner to take instructions from the petitioner about withdrawal of petition. It appears that the petitioner is not willing to withdraw the petition.

In these circumstances, in view of the orders earlier passed, I do not see any

propriety in granting the request made by the learned counsel for the petitioner. By the impugned order, the defence of the petitioner has been struck off and also his counter claim has been rejected. It appears that earlier the matter was before this Court in Civil Revision Application and this Court had passed an order of remand. After remand, the Court below has again heard the parties and has passed the impugned orders. The Court below has specifically recorded that the petitioner – original defendant is purposely creating hurdles in the proceedings and therefore the breach committed by him was wilful. I do not find that said finding is either erroneous or perverse. There is no failure to exercise jurisdiction.

In the circumstances, no interference is warranted in writ jurisdiction. Writ Petition is dismissed. However, the petitioner is at liberty to challenge the impugned order before appellate forum after final adjudication of suit by the Court below.

JUDGE

*GS.